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Briant, J.

JUDGE BRIANT

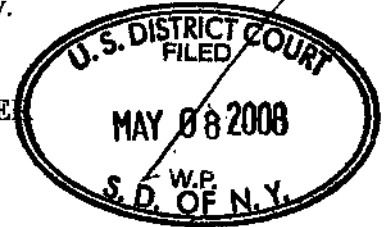
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

08 CIV 40667

IN THE MATTER OF THE PETITION OF
HUDSON RIVER SLOOP CLEARWATER, INC.,
AS OWNER OF THE SLOOP CLEARWATER,
FOR EXONERATION FROM AND
LIMITATION OF LIABILITY

08 Civ.

ORDER



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A Petition having been filed herein on the 30th day of April, 2008, by the above named Petitioner, as owner of the Sloop CLEARWATER, praying for Exoneration From or Limitation of Liability pursuant to Title 46 U.S.C. § 30501 et seq. (formerly 46 U.S.C. App. § 183) and Rule F of the Supplemental Rules of Certain Maritime and Admiralty Claims, and the statutes supplemented thereto and amendatory thereof, and also contesting his liability independently of the limitation of liability claimed in said Petition for any loss, damage, injury or death arising out of an incident which occurred on May 25, 2005, while in the area of West Point, New York;

AND said Petition also stating the facts and circumstances upon which said exoneration from or liability is claimed, and an ad interim stipulation for value dated April 24, 2008, executed by The Northern Assurance Company of America, a surety, in the sum of Three Hundred Thousand Dollars (\$300,000.00), said ad interim stipulation for value shall stand as security for all claims and costs against Petitioner and the vessel in this proceeding;

AND it appearing that suits have been filed and/or claims asserted against Petitioner and/or the vessel for loss of life, damage, injury or destruction alleged to arise out of the aforesaid voyage;

NOW, on motion of Nicoletti Hornig & Sweeney, attorneys for Petitioner, it is

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ORDERED that the above described ad interim stipulation for value for the benefit of claimants in the sum of Three Hundred Thousand Dollars (\$300,000.00), with interest, as security for the amount or value of the Petitioner's interest in the subject vessel, be and the same hereby is approved; and it is further

ORDERED that the Court, upon motion, shall cause due appraisal of such value and may thereupon order the said security to be increased or reduced if the Court finds the amount thereof insufficient or excessive; and upon demand, the Court may similarly order such increase or reduction if it finds that such an order is necessary to carry out the provisions of Title 46 U.S.C. § 30501 et seq. (formerly 46 U.S.C. App. § 183 et seq.), in respect of loss of life or bodily injury; and it is further

ORDERED that any claimant to these proceedings may, at any time, signify by written notice, filed with the Court and served upon other parties of record, its dissatisfaction with The Northern Assurance Company of America as surety herein. In the event of such notice, Petitioner shall have five (5) business days of receipt thereof to cause security to be posted in the form provided by the rules of this Court, failing which the injunction entered concurrently herewith will be vacated as to all claimants, and the Court will make such further orders as the justice of the cause may require; and it is further

ORDERED that a notice shall be issued by the Clerk of this Court to all persons asserting claims with respect to which the Petition seeks exoneration and limitation admonishing such persons to file their respective claims with the Clerk of this Court in writing, and to serve on the attorneys for Petitioner a copy thereof on or before the 7th day of July, 2008, or be defaulted, and that if any claimant desires to contest either the right to exoneration from or limitation of liability, he shall file and serve upon the

attorneys for Petitioner an Answer to the Petition on or before such date, unless his claim has included an Answer to the Petition, so designated, or be defaulted; and it is further

ORDERED that public notice of the aforesaid admonition be given by publication in The Journal News as provided by the aforesaid Supplemental Rule F; and it is further

ORDERED that the further prosecution of any and all suits now pending, and the institution of any and all suits, actions or legal proceedings of any nature and description whatsoever in any jurisdiction, and the taking of any steps and the making of any motion in such suits, actions or legal proceedings against Petitioner or against the vessel, or either of them, except in the present proceeding, in respect of any losses, damages, or injuries arising out of said incident involving the vessel, as alleged in said Petition, be and they hereby are restrained, stayed and enjoined until the hearing and determination of this proceeding; and it is further

ORDERED that service of this Order as a restraining order, may be made through the Post Office by mailing a conformed copy of this Order to the person or persons to be restrained, or to their respective attorneys.

So ORDERED:


U.S.D.J.

✓ Dated: this 7th day of MAY, 2008
White Plains, New York

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JUDGE BRIEANT

08 CIV 4066

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE PETITION OF
HUDSON RIVER SLOOP CLEARWATER, INC.,
AS OWNER OF THE SLOOP CLEARWATER,
FOR EXONERATION FROM AND
LIMITATION OF LIABILITY

08 Civ.

MONITION

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The PRESIDENT OF THE UNITED STATES OF AMERICA TO THE
UNITED STATES MARSHAL FOR THE ^{SOUTHERN}DISTRICT OF NEW ^{YORK}~~JERSEY~~, GREETINGS:

WHEREAS, a Petition has been filed in the District Court of the United States for the Southern District of New York on the 30th day of April, 2008, Hudson River Sloop Clearwater, Inc., as owner of Sloop CLEARWATER, claiming the benefit of exoneration from or limitation of liability according to law and as provided in Section 30501 et seq. (formerly 183 et seq.) of Title 46, United States Code and Supplemental Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims and the statutes supplemental thereto and amendatory thereof, and also contesting its liability independently of the limitation of liability claimed in said Petition for any loss, damage, injury or death arising out of or occurring on May 25, 2005, in which the vessel and said Petition also stating the facts and circumstances on which said exoneration from or limitation of liability is claimed, and an ad interim stipulation for value dated the 24th day of April, 2008, executed by The Northern Assurance Company of America, as surety, in the sum of \$300,000.00, the said ad interim stipulation for value shall stand as security for all claims and costs against the Petitioner or the vessel in this proceeding; and

WHEREAS, this Court has ordered that a monition issue out of and under the seal of this Court against all persons claiming damages for any and all losses, damages, injuries or death arising out of or occurring on May 25, 2005, on or in the vicinity of the vessel, as described in said Petition, citing them to appear before this Court and to file their claims with the Clerk of this Court in writing and under oath, and to serve copies thereof on attorneys for the Petitioner on or before the 7th day of July, 2008, and directing that any such persons, or their personal representatives, claiming damages as aforesaid who shall desire to contest the claim of Petitioner, shall answer said Petition.

YOU ARE, THEREFORE, COMMANDED to cite all persons claiming damages for any and all losses, damages, injuries, death and destruction arising out of or occurring on May 25, 200~~5~~⁸, on or in the vicinity of the vessel, as described in said Complaint, to appear before this Court in writing and under oath, and to serve copies thereof upon Nicoletti Hornig & Sweeney, attorneys for Petitioner, 88 Pine Street, 7th Floor, New York, New York 10005, on or before the 7th day of July, 2008, and, if any such persons or their personal representatives shall desire to contest the claim of Petitioner, to answer said Petition on or before the said date, or within such further time as this Court may grant, and to have such other and further relief as may be due them.

AND what you have done in the premises do you then make return to this Court together with this Writ.

WITNESS the Honorable

Charles L. Briant
CHARLES L. BRIANT

, Judge of the

✓ District Court of the United States for the Southern District of New York 7th day of

✓ MAY, 2008, and the independence of the United States the two-hundred and thirty-one.

J. Michael McMahon
Clerk of Court

NICOLETTI HORNIG & SWEENEY
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New York, New York 10005
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Fax: 212-220-3780
Attorneys for Petitioner
OUR FILE: 10000475 DRH/GSR

by: *Robert Rogers*

Robert Rogers
Deputy-in-Charge
USDC / SDNY

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